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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

NOEL CHRISTOPHER CRAWFORD,

Defendant and Appellant.

A147437

(Marin County  
Super. Ct. No. SC059983)

Appellant Noel Christopher Crawford appeals from the trial court's order extending her mental hospital confinement under Penal Code section 1026.5, subd. (b).<sup>1</sup> We affirm.

PROCEDURAL BACKGROUND

In January 1995, appellant was found not guilty by reason of insanity of arson (§ 451, subd. (d)), battery on a police officer (§ 243, subd. (c)), battery (§ 242), and vandalism (§ 594, subd. (a)).<sup>2</sup> Appellant was committed to a state mental hospital under section 1026, with a maximum commitment date of February 19, 2016.

In October 2015, the Marin County District Attorney filed a petition to extend appellant's commitment under section 1026.5, subd. (b). Following a bench trial, the trial court extended the commitment to February 19, 2018.

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<sup>1</sup> All undesignated statutory references are to the Penal Code.

<sup>2</sup> The parties agree appellant was found not guilty by reason of insanity, even though they both cite to a 2015 affidavit stating appellant was "found guilty by reason of insanity." For purposes of this appeal we shall assume the phrasing in the affidavit is a mistake.

## FACTUAL BACKGROUND

Appellant, who was 66 years old at the time of trial, has schizoaffective disorder (bipolar type) and narcissistic personality disorder, and suffers from various delusions.<sup>3</sup> She has been committed to mental hospitals approximately 15 times since she was 20 years old.

In the underlying 1995 offenses, appellant was homeless and wanted to be arrested for “three hots and a cot,” so she set a newsstand on fire and “got into a scuffle with a police officer.” In 2000 or 2001, appellant was placed in CONREP, an outpatient program in a group home setting that provides some supervision. In 2006, appellant “got into an altercation” with a bus driver and kicked in the door of the bus. She also went “AWOL” from CONREP and refused to take her medications. She ended up in an emergency room where she attacked the hospital staff and then the police. Appellant’s CONREP placement was revoked and she was sent to Patton State Hospital.

Between 2006 and 2008 there were “a lot of instances of aggression” by appellant at the state hospital. In 2008, she attacked a worker who was trying to get her into a room to calm down; the worker suffered an injury requiring 13 stitches.

Appellant has been “assault free” since 2008, but there have been problematic incidents due to her narcissism. For example, in 2014, appellant was going to return to CONREP, but her placement kept being delayed. Appellant “couldn’t get over the narcissistic injury of being put off,” had a “severe meltdown,” and ultimately refused to go to CONREP. The staff psychiatrist prescribed an increase in medication; appellant resisted but ultimately complied.

Another 2014 example of “where the narcissism can get [appellant] in trouble,” was an incident between appellant and another patient, a young man who had been flirting with young women on the floor. Apparently seeking attention, appellant approached the man and tried to touch her stomach to his stomach. Appellant had very

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<sup>3</sup> The expert testimony about appellant’s mental condition is summarized in the discussion portion of this opinion.

bad breath and the young man pushed her away. Appellant tripped and fell, and falsely told staff members the man had thrown her to the ground.

## DISCUSSION

Under section 1026.5, subdivision (a)(1), a person committed to a state hospital after being found not guilty by reason of insanity may be kept in custody no longer than the maximum term of commitment for the underlying offense or offenses. However, if the person “represents a substantial danger of physical harm to others” “by reason of a mental disease, defect, or disorder,” the commitment may be extended beyond that maximum in two-year increments. (§ 1026.5, subd. (b)(1) & (b)(8).)<sup>4</sup> The People bear the burden of proving beyond a reasonable doubt the conditions required for an extended commitment under section 1026.5. (*People v. Superior Court (Blakely)* (1997) 60 Cal.App.4th 202, 216.) In the present case, appellant does not deny she suffers from a mental disease, defect, or disorder. However, she contends no substantial evidence supports the trial court’s finding that, by reason of her condition, she represents a substantial danger of physical harm to others. In particular, she contends there is no evidence she has serious difficulty in controlling her dangerous behavior, which is an aspect of the section 1026.5 dangerousness determination. (See *People v. Williams* (2015) 242 Cal.App.4th 861, 872 (*Williams*).) We disagree.

### I. *The Expert Testimony*

The trial court heard expert testimony from appellant’s treating psychiatrist, her treating psychologist, and a defense expert.

#### A. *Ramila Duwal, M.D.*

Dr. Ramila Duwal, a staff psychiatrist at Patton State Hospital, has been treating appellant since 2009. Dr. Duwal diagnosed appellant with “[s]chizo-affective disorder, bipolar type.” Appellant’s disorder has “both a mood component and a psychotic

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<sup>4</sup> Section 1026.5, subdivision (b)(1) provides, “[a] person may be committed beyond the term prescribed by subdivision (a) only under the procedure set forth in this subdivision and only if the person has been committed under Section 1026 for a felony and by reason of a mental disease, defect, or disorder represents a substantial danger of physical harm to others.”

component.” She “can have highs and lows like a bipolar patient, grandiosity, feeling manic on top of the world, and lows being depression.”

Appellant’s psychosis manifests in delusions, including that she is related to the Rockefeller family, that she is wealthy, that she invented a part for Volkswagen, and that she is a famous Broadway actress. She also “thought that she was God at one point.” Appellant’s delusions are not inherently violent and she acknowledges she suffers from delusions.

Appellant is prescribed an antipsychotic medication that helps treat both the mood and psychotic components of her condition, although delusions are “very hard to treat.” Dr. Duwal expressed concern that appellant would not take her medications outside a “structured environment.” Specifically, appellant’s grandiose thoughts could interfere with her taking her medications. The doctor admitted appellant did not refuse to take medication while at Patton State Hospital and appellant has acknowledged she needs to take medication for the rest of her life. However, the doctor opined it is “most likely” appellant would stop taking medication in an unstructured environment. A new CONREP placement would be more appropriate for appellant than unsupervised release.

On the issue of dangerousness, Dr. Duwal explained that without her medications appellant becomes manic and may get into a situation where she ends up assaulting someone. As examples of the danger posed by appellant, the doctor made reference to appellant’s underlying crimes and the 2006 incident that resulted in the termination of her prior CONREP placement.

B. *Bruce Karp, Ph.D.*

Bruce Karp is a staff psychologist with Patton State Hospital who has treated appellant since 2009. Appellant suffers from “schizoaffective disorder, bipolar type, narcissistic personality disorder, and alcohol use disorder in remission.” Dr. Karp described many of the same delusions that Dr. Duwal described. He also explained that, “[t]he problem for [appellant] is that the delusions are sort of continual for most days. So, she’s not a lot of times in touch with reality.”

Regarding appellant's narcissistic personality disorder, Dr. Karp explained that appellant has "trouble evaluating herself realistically," which makes it "hard for her to make good decisions when she's not being supervised." Dr. Karp opined that, due to her narcissism, there was a "very . . . high likelihood" appellant would make a bad decision if released that "will result in homelessness or some sort of situation where she's not getting her medication anymore. At that point she becomes overtly manic and becomes dangerous." For example, prior to the underlying offenses appellant's poor decisions led her to becoming homelessness and then manic. The 2014 incident with the flirtatious young man in the unit is another example of appellant's bad decision-making and poor perception of reality. Other risk factors for appellant include feelings of isolation, boredom, and rejection. There are no medications available to treat appellant's narcissism, and she only accepts the diagnosis about 25% of the time.

Dr. Karp believed appellant would be dangerous to the public if released. In addition to the risk she would end up in a dangerous manic state due to bad decisions, Dr. Karp observed that appellant lacks empathy and believes all the victims of her past assaults deserved what they got. That lack of empathy towards past victims makes it more likely future assaults will occur.

Dr. Karp acknowledged appellant had not been violent when manic in the hospital since 2008 and had not reacted violently when pushed by the young man in 2014 or on another occasion when assaulted by a fellow patient. He also acknowledged appellant had been compliant with her medication regime since 2006 and had expressed intent to take her medications for the rest of her life. Dr. Karp believed appellant should be released to CONREP, but he did not believe appellant would be able to maintain the medication regime if unsupervised, which would make her dangerous.

C. *Martin Blinder, M.D.*

Dr. Martin Blinder testified on behalf of the defense as an expert in "psychiatric, admissions and discharges from hospitals and psychopharmacology." Based on his review of appellant's file and an interview with her, he diagnosed appellant as having "schizoaffective disorder largely in remission; recreational polysubstance use in

institutional remission; [and] borderline personality disorder with antisocial and narcissistic features improved.” He believed appellant had “gotten maximum benefit” from the treatments for her schizoaffective disorder and was ready to be released. He acknowledged it is easier to be medication compliant in a controlled setting, but he believed appellant “is more enthusiastically compliant now than at any other time” in the past. Dr. Blinder opined appellant did not pose a substantial danger to others, stating “she is the primary victim of her character disorder, not the world.” He also opined her age made it less likely her mental conditions would manifest in dangerous ways. He believed appellant has a “good, solid discharge plan” and would receive assistance from her brother after release. He also believed CONREP could be a good option for appellant.

## II. *Analysis*

The trial court found the People proved the basis for the section 1026.5 extension beyond a reasonable doubt. The court reasoned, “I think the testimony was strong by the people who know [appellant] best . . . . I think that their testimony firmly established the legal standard beyond a reasonable doubt that . . . [appellant] pose[s] a substantial danger of physical harm to others and that [appellant has] a very serious difficulty controlling [her] potentially dangerous behavior.” Regarding the testimony of Dr. Duwal and Dr. Karp, the court stated, “The examples that the experts relied on I think support[] their opinion[s], and I’m concluding that their opinions are persuasive and valid and I can rely on them with a great level of confidence.”

“We review an order to extend commitment under section 1026.5 by applying the substantial evidence test, examining the entire record in the light most favorable to the order to determine whether a rational trier of fact could have found the requirements of the statute satisfied beyond a reasonable doubt. [Citation.] A single psychiatric opinion that a person is dangerous because of a mental disorder constitutes substantial evidence to justify the extension of commitment.” (*Williams, supra*, 242 Cal.App.4th at p. 872.) Such expert testimony must be supported by “ ‘relevant, probative’ ” facts, rather than “ ‘guess, surmise or conjecture.’ ” (*Lockheed Martin Corp. v. Superior Court* (2003) 29

Cal.4th 1096, 1110; see also *People v. Zapisek* (2007) 147 Cal.App.4th 1151, 1168 (*Zapisek*).)

In *In re Howard N.* (2005) 35 Cal.4th 117, the California Supreme Court considered the constitutionality of an extended detention scheme for juvenile offenders. The court acknowledged that the United States Supreme Court “has repeatedly ‘recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection.’ ” (*Id.* at p. 127.) *Howard N.* summarized a line of precedent clarifying that, “to be involuntarily civilly committed as a sexually violent predator, the person must, as a result of mental illness, have serious difficulty controlling his dangerous behavior.” (*Id.* at p. 128; see also *People v. Williams* (2003) 31 Cal.4th 757, 772 [“if individuals could be civilly confined as dangerous without *any* disorder-related difficulty in controlling their dangerous behavior, there would be no adequate distinction from the general run of dangerous persons who are subject exclusively to the criminal law”].) *Howard N.* concluded the same principle applies to the juvenile extended detention scheme at issue in the case, and further concluded “the extended detention scheme should be interpreted to contain a requirement of serious difficulty in controlling dangerous behavior.” (*Howard N.*, at p. 132.) Then, in *People v. Galindo* (2006) 142 Cal.App.4th 531, 536–537 (*Galindo*), the court of appeal held the same standard applies to extensions of confinement under section 1026.5. Accordingly, in showing appellant poses substantial danger of physical harm to others, respondent was required below to prove beyond a reasonable fact that appellant has serious difficulty controlling her dangerous behavior. (*Zapisek, supra*, 147 Cal.App.4th at p. 1159.)

Appellant contends reversal in the present case is required under *Galindo*. In that case, the trial court held a bench trial and extended the commitment of a defendant who was diagnosed with bipolar disorder without making an express or implied finding the defendant had serious difficulty controlling his behavior. The court of appeal held the error was prejudicial because, although there was “abundant evidence that defendant’s behavior was dangerous and that he did not, in fact, control it . . . the fact he *did not* control his behavior does not prove that he *was unable to do so*, thus making him

‘dangerous beyond [his] control.’ ” (*Galindo, supra*, 142 Cal.App.4th at p. 539; see also *In re Howard N., supra*, 35 Cal.4th at p. 138 [“There was, however, no testimony that defendant’s mental abnormality caused him serious difficulty controlling his sexually deviant behavior.”].) Remand was necessary in *Galindo* because “the evidence was not such that any rational jury would have found that” the defendant had serious difficulty controlling his dangerous behavior due to his mental disorder. (*Galindo*, at p. 539.)

Here, the question is not whether a reasonable trier of fact could have found in appellant’s favor on the control issue, but whether substantial evidence supports the trial court’s express finding that appellant has serious difficulty controlling her dangerous behavior as a result of her mental disorders. Appellant argues respondent’s experts did not directly address that point in their testimony. However, as summarized above, Dr. Karp opined that appellant’s dangerousness resulted from the probability that her narcissism and delusions would interfere with her medication regime and put her in situations similar to those that resulted in violence in 1995, 2006, and 2008. Appellant’s lack of control is implicit in that testimony, because the dangerousness is a direct result of appellant’s mental conditions. Dr. Duwal provided similar testimony. Because appellant’s narcissism cannot be controlled by medication and because her delusions persist despite the antipsychotic medication she takes, the expert testimony showed she has serious difficulty controlling her dangerous behavior as a result of her mental disorders.

We recognize that, unlike some of the defendants in other cases, appellant does not suffer from delusions that inherently present a risk of violence. (Cf. *People v. Sudar* (2007) 158 Cal.App.4th 655, 663 [the appellant “continue[d] to believe satanic cults were at work, [and] he believed a conspiracy was in place at the hospital to keep this a secret and keep him in the hospital”]; *Zapisek, supra*, 147 Cal.App.4th at p. 1166 [the appellant “continued to believe wholeheartedly in delusions and experience paranoia which he cannot control, both of which are of the type that has led him to act violently in the past”]; *People v. Bowers* (2006) 145 Cal.App.4th 870, 879 [the appellant suffered from “command hallucinations that order her to hurt others”].) But Dr. Karp explained why

appellant's narcissism and grandiose delusions were likely to result in bad decisions that would result in her stopping taking medication. Thus, there is evidence her delusions contribute to her dangerousness, even though the delusions are not paranoid or violent.

Appellant also emphasizes her good recent record in confinement, both with respect to complying with her medication regime and avoiding violence. She also points out she performed well on CONREP until her medications were changed. However, her treating doctors explained why they believed appellant's behavior in the structured environment of the hospital or the semi-structured CONREP environment was not indicative of how she would behave if unsupervised. (See *People v. Kendrid* (2012) 205 Cal.App.4th 1360, 1370 [doctor "explained appellant was able to control his behavior in prison because it was a highly structured environment where he was punished immediately"].) As *Kendrid* explained, "The People are not required to prove the defendant 'is *completely* unable to control his behavior.'" [Citation.] Instead, the defendant's 'impairment need only be serious, not absolute.' " (*Ibid.*) Finally, appellant points out she acknowledges her schizoaffective disorder and the need to take medication. However, she does not fully acknowledge her narcissism and, in any event, her treating doctors explained why her delusions and narcissism create a likelihood she will not comply with her medication regime unsupervised, despite the insight she demonstrates in the hospital.

The trial court's finding is supported by substantial evidence.

#### DISPOSITION

The trial court's order is affirmed.

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SIMONS, J.

We concur.

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JONES, P.J.

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BRUINIERS, J.